

Amendments to the Drawings:

The attached sheet of drawings includes changes to Fig. 3 in which reference number '14' was changed to reference number '34'. This sheet, which includes Fig. 3, replaces the original sheet including Figs. 1 -3.

Attachment: Replacement Sheet

REMARKS/ARGUMENTS

Claims 1-25 are pending in the instant application. The inconsistent use of reference number 14 in Figs. 1 and 3 was objected to. Claims 1-25 were provisionally rejected under obviousness-type nonstatutory double patenting and rejected under 35 U.S.C. 103 as being obvious in view of various combinations of references.

DRAWINGS

The drawings were objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "14" had been used to designate both an "extruder" (see page 6, line 12 and Figure 1) and a "cylindrical structure" (see Figure 3). In Fig. 3, an error occurred in that reference number '14' should have been designated as reference number '34', as indicated on page 6 of the specification, and in Fig. 4. A Replacement Sheet is attached hereto.

DOUBLE PATENTING

In response to the provisional nonstatutory obviousness-type double patenting rejections of claims 1-25, a timely terminal disclaimer in compliance with 37 CFR 1.321 c) is filed herewith to overcome the provisional rejections as the conflicting application is co-owned with the instant application.

CLAIM REJECTIONS – 35 U.S.C. Section 103

Claims 1-25 were rejected under 35 U.S.C. 103(a) as being unpatentable over Levin et al. (U.S. Pat. No. 6,672,252 B2) in view of various references. In response, Applicant respectfully contends that Levin et al. can not be used against the claimed invention and submits the attached Declaration of Charles A. Byrne under 37 CFR § 1.131.

The Declaration of Charles A. Byrne, the inventor of the instant application, demonstrates that the subject matter of Levin et al. was well-known to the Applicant of the instant application as the Applicant had conceived of and been developing this subject matter prior to the Levin et al. filing date.

Charles A. Byrne conceived of the present invention at least as early as the period between 1995 and 1998; filed U.S. Provisional Patent Application Serial No. 60/372,849 on April 16, 2002, followed by the filing of U.S. Patent Application Serial No. 10/414,630, filed April 15, 2003, which was followed by the filing of the present application on November 3, 2003.

Levin et al. is not a statutory bar and the 35 U.S.C. 103(a) rejection is overcome by antedating the Levin et al. patent's filing date of January 31, 2002 by Charles A. Byrne's declaration under 37 CFR 1.131. Thus, the rejections of Claims 1-25 should be withdrawn.

CONCLUSION



Applicant believes that the foregoing arguments distinguish the claims of the present invention from the prior art references. Accordingly, Applicant believes that all pending claims 1-25 are in condition for allowance, notice of which is hereby respectfully requested.

Respectfully submitted,

KELLY LOWRY & KELLEY, LLP

A handwritten signature in black ink, appearing to read "Scott W. Kelley".

Scott W. Kelley
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Attachments:

Drawing "Replacement Sheet"
Declaration of Charles A. Byrne
Terminal Disclaimer